

# "Silent Shame Of Nevada"

TO: THE 70TH NEVADA LEGISLATURE, VIA CERTIFIED MAIL Z 463 115 252  
GOVERNOR, KENNY GUINN,  
NEVADANS.

RE: PRIVATIZATION OF WORKERS COMPENSATION,  
NO ON SB 37,417, RELATED BILLS,  
REPEAL 1995 AB 552.

Reports have flourished in the past about the ineptitude of State Industrial Insurance System management, [SIIS, Now EICON, Employers Insurance Co. Nevada] Abuses by claimants, greed by Attorneys, unnecessary treatment by their Physicians and a litany of other factors—all of which have conspired to create the so called "present Crisis". There will always be disgruntled claimants who knew benefits were to Low and now extinct and the Employers who are equally sure that premiums are to high--and, perish the thought, to the others, skirmishing for monetary or political advantage. Unfortunately, much of this is rooted in fact.

Workers' Compensation is a "no-fault" system based on the premise that it is most economically efficient to have Employers absorb the expense of work place injuries as normal costs of doing business, which can in turn be passed on to the consumer in the form of higher prices. Such Statutes are based on a compromise of Rights, whereby the Employer relenquishes normal Tort defenses and becomes automatically subject to liability, and the Employee then relenquishes previous common law remedies to make him whole following an on-the-job-injury. A reasonably balanced quid pro quo of Rights has been deemed constitutionally necessary to satisfy Due Process Requirements. The Nevada Supreme Court holds the following.....

"The purpose of workers compensation acts is to put an end to private tort litigation between employer and employee and to give a worker the Right to compensation for injuries suffered in employment, regardless of fault on the part of the Employer"

Nevada Industrial Commission vs Peck,  
69 Nevada 1, 5, 239 P2d 244 to 246

## RECENT HISTORY OF SIIS

Aproximately 1981-82 while SIIS was under the helm of Laury Lewis there was an Exodus of work-comp Trust Funds to the

1 tune of 34 Million Dollars, wherby he decided to give up on a Law  
2 suit agianst SIIS. From 1978 thru 1987 there was an Exodus of  
3 Work Comp Trust Funds of a total of 172 million Dollars and  
4 this was so called "Dividend Returns" Govenor O'Calahan was not  
a happy camper over this and there were no premimum increases.

5 Rightly so there was then an Exodus of Employers becoming  
6 self-insured, therby lowering the SIIS premimum bases and the  
7 un-funded Liabilitys raised by their standards, but keep in mind  
8 SIIS dosent use General Accounting Procedures, (GAP Method) and  
9 nor do they ever allow the Public Access to figures even though  
10 NRS Statutes permit total access. In July of 1991 the reported book  
11 value of SIIS reserves was \$667 Million. By June of the following  
12 year this had dropped to \$573 Million. (Financial Forecast & Strat-  
13 egic Plan, SIIS June 23, 1992, "The Forecast") The Forecast predicted  
the book value of SIIS reserves would be Zero Dollars by the end  
of fiscal year 1996. Senator Randy Townsend in 1993 stated the  
system is now losing aproximately \$2 Million dollars a week.

14 Tresa Rankin then State Insurance Commissioner seeking to trump  
15 Randy, told the Legislature that SIIS "loses more than a \$1 Million  
16 a day. (Ed Vogel, SIIS loses big daily, Carson City Appeal Jan 20,  
17 1993, at A3) In February 1996 Price Waterhouse paid SIIS \$2.9 Mil.  
18 dollars resulting from a SIIS lawsuit whereby the accounting firm  
19 was accused of Inacurate Audits in 1992. Tillinghast and Peat  
20 Marwick Actuarial Firms shoed in 1992 that SIIS had Unfunded  
21 liabilities of \$1.4 Billion Dollars. Govenor Miller not satisfied  
22 ordered another SIIS Audit at Taxpayers Expense and it came in  
23 at \$2.2 Billion, \$800 Million more than the SIIS figures.

24 Now were taking about some real bucks. How much is a  
25 Billion Dollars? Probably few people besides Steve Wynns Friend  
26 Michael Miliken really know. If Columbus had started an Insurance  
27 Company in 1492 and lost \$1000 dollars a day up to the present  
28 time, he would have another 2,232 years before his total losses  
would reach \$1 Billion Dollars. SIIS had a board whose primary  
responsibilitys were constantly being overrided by Politicians  
and other groups contributed significantly to the Problems, after  
all there is Aproximatetly \$500 Million Dollars a year paid in

1 Premiums to the State Treasury segregated Trust Fund for Nevada  
2 Workers Compensation.

3 In 1993 Governor Bob Miller, A Constitutional Officer,  
4 appointed himself CEO over a SIIS, a State Agency by Statute NRS  
5 616B.056. His first Task as CEO was to Fire the SIIS Board Of  
6 Directors and hire James Kropid as the Interim manager and the  
7 following year appointed Douglas Dirks, (A SIIS CPA) Manager of  
8 the State runned Insurance system. At the helm of Scott Craigie,  
9 then Governor Millers Assistant the "Concert" to reform Nevadas  
workers Compensation began Officially in 1993 at a large table  
set up in front of Randy Townsends, Senate Commerce And Labor  
Committee at the new Grant Sawyer State Bldg in Las Vegas.

10 Cheif Gaming Lobbyist, Harvey Whitmore was at the  
11 center of the table, Larry Zimmerman, Self Administrator of the  
12 largest Sef-Insurers, Bob Ostrovsky, Chairman of the Governors  
13 Advisory Board, Dean Hardy, past president of the Trial Lawyers,  
14 The Meeting room was packed to an over-capacity crowd to begin  
15 the Feast, a total of 180 Amendments to Workers Compensation were  
16 presented, I felt Ackward sitting there amongst these people in  
their \$300 dollar suits and me having just a Sweater and Slacks  
and my Orthepeidic Tennis Shoes.

17 The Legislature and Friends Amended many Statutes, (All have  
18 been Negative since that day.....

- 19 A) 293 "Take Aways: in SB 316 in .....1993  
20 B) 185 "Take Aways".....1995  
21 C) 88 "Take Aways".....1997  
22 D) 138 "Take Aways" Proposed.....1999

23 A few of the Major "Take Aways".....

- 24 1. Claimants no longer allowed to choose their  
own "Treating Physicians".  
25 2. Managed Care Organizations Implemented and  
26 paid Service fees to manage Claims and a  
27 Bonus for Controverting(Terminating) a  
Claimants case, in 1993  
28 3. Permanent Partial Disability Awards were  
reduced and frozen at .05%

- 1 4. Permanent Partial Disability Ratings lack any  
2 semblance of Due Process whereby the System picks  
3 the Workers Rating Doctor off a restricted List &  
4 if the Worker is in Disagreement with his/her Rating  
5 and being Unemployed for a sometimes lengthy time and  
6 can muster up the \$470 dollars for a Re-evaluation,  
7 the system picks another Doctor off their list denying  
8 the worker a physician that specializes in that field  
9 an opportunity to testify on the claimants behalf to  
10 the extent of the workers job-related Disability.  
11 The Powers of the Appeals Officer were Amended, thus  
12 removing his/her authority to Order another Rating.
- 13 5. Auto-Matic Stays of hearing Officers Decision are given  
14 the system now just by Applying for thus denying Due  
15 Process.
- 16 6. Ex-Parte Communication via telephone by the Insurer to  
17 the Claimants Physician was Codefied.
- 18 7. The American Medical Associations Guide to Impairment  
19 Ratings is Re-Written in sections the Division of  
20 Industrial Insurance of Nevada dosent care for.
- 21 8. The Division Of Industrial insurance is dubbed the  
22 "Enforcement Agency" for a Claimant and is "Exclusive  
23 remedy" for all Worker'sComp Claims eliminating the  
24 right to sue his/her employer.
- 25 9. Offsets of Disability Awards are being made for Workers  
26 previously hurt even if it is a seperate body part as  
27 in my case wherby I was found Disabled for a Back inj-  
28 ury and Recieved \$5,528 for loss of my left eye 17 yrs  
earlier and the System wanted "Pawn Fees" of \$55,000  
dollars,charging me a total of \$60,480 dollars for my  
left eye saying they deserved "the time value of Money"  
they could have earned on my Award,had they not paid  
me by "Irrevokeable" Contract thus Retroactivly impair-  
ed a written contract which is Mis-representation and  
Fraud and in Violation of Section II of the ADA.  
Are the Nevada Trial Lawyers going to help pay back the  
Retroactive "Pawn Fees",they got 35-40% of Workers PPD  
Award.

1 When ever an Injured Worker wins a Nevada Supreme Court  
2 decision, sometimes, subtle hints are in the opinion so the next  
3 Legislature can re-Codify the Statute and thus, in their eyes  
4 eliminate Case Law within the State and Controvert future claims  
being paid. Examples of a few recent cases to present are.....

5 SIIS vs Weaver, Campbell, Peck, Rainser, Kelly,  
6 Warpinski, Harrison, Lodge, Meers,  
7 Truck Insurance Exchange, Breen,  
Miller, Rosser, Bokelman, Evans,  
Engel, Hayes

8 In Factual Retrospect you have knowledge there has been a  
9 huge Exodus of Treasury Trust Fund Monies, A huge Exodus of Work  
10 Comp Benefits per Statute Revision, A huge Exodus of Rights per  
11 Work Comp Statutes, A huge Exodus of Nevada Case Law, Since 1993  
12 Boo-Coo Claims have been Denied, Boo-Coo claims have been put on  
13 the Circ-de-Soli SIIS Treadmill, Boo-Coo Misrepresentations have  
14 been made by SIIS, (A State Agency) per Offsets, Contracts and by  
15 Statute Charging the Employers of this State Premium Rates of  
16 Insurance when in effect the Majority of Benefits have long since  
17 been removed in the last of Eight odd numbered years. A good part  
of this Exodus could never been Accomplished without the Direction  
of Senator Ann O and Randys year long quartly meeting Sub-Committe  
dealing with Work-Comp Issues only from 1993 per NRS 218.5375.

18 FRAUD:.....consists of some decitful practice  
19 or willful device, resorted to with intent to deprive another  
of his Right or injure him. Blacks Law Dictionary, 2nd Edition 1910

20 ..... "Bad Faith" and "Fraud" are Synonymous and also  
21 Synonyms of Dishonesty, infidelity, Faithlessness, Perfidy and  
Unfairness, etc. Blacks Law Dictionary, 6th Edition, 1990

22  
23 In 1995, AB 552 and others set the stage for 3 Way Workers  
24 Compensation Insurers and Statutes were Amended to start July 01,  
1999.

#### 25 PRIVATIZATION IN NEVADA

26  
27 On April 05, 1999 : Before Randy Townsends Senate Commerce and  
28 Labor Committee, Douglas Dirks, EICON Manager acting in Concert with

1 Leonard Ormsby, Chief General Counsel of EICON, unveiled the SB 37  
2 Amendment on Making EICON into Employers Mutual Insurance Company  
3 of Nevada whereby January 01, 2000 EICON would become A TAX EXEMPT  
4 PRIVATE INSURER, FOR WORK COMP AND ALSO SELL OTHER CASUALTY INSURA-  
5 NCE. THEY PLAN TO PAY \$775-800 MILLION DOLLARS IN CASH TO SEVERAL  
6 RE-INSURANCE COMPANYS FOR \$2 BILLION DOLLARS LIABILITY ON THE  
7 UNFUNDED DEBT OWED IN PARTIAL DISABILITY AND PERMANENT DISABILITY  
8 THAT OCCURED IN THE PAST AND THE STATE HAS FIDUCIARY RESPONSIBILI-  
9 TY FOR THE NEXT 40-60 YEARS TO THESE CLAIMANTS. In other Senate  
10 Bills, The Chief Executive Officer of this new Company can pick &  
11 choose the Employers it wants to Insure or surrender them to one  
12 of the other 201 Insurers already Licensed by the Insurance Comm.  
13 in Anticipation of the July 01, 1999 Start Date. On April 13th, 1999  
14 A public hearing was held on the SB37 Amendment. During the public  
15 Comment Section the Chief Counsel of American International Group  
16 Insurers (from back east) asked Senator Townsend, "Whats going to  
17 happen, when the Re-Insurance Sledge Hammer Falls"? Townsend very  
18 abruptly snapped back... "Ive been out to Dinner with your guys in  
19 the past and this 3 way Issue has been Settled" and unless you  
20 have come here today to testify or have some Input on this SB37  
21 amendment, thats all the testimony were taking today, just this  
22 Amendment, is that Clear?" Well?, the record will reflect the AIG  
23 Spokesman said he had nothing more to add! Call any Insurer and  
24 he will roll his eyes when the subject of Re-Insurance Appears.

25 The Liability is Contracted, usually with several Weak  
26 Companys to get a lower Premium and if the Re-Insurance goes  
27 Belly-up, Everybody Loses! (good money after bad) Senator Townsend  
28 has been quoted that Privatization creates "Competition" Websters  
New World College Dictionary defines Competition(7).....

"The struggle among individual Organisms  
for food, water, space, etc. when the available supply  
is limited."

Senator Ann O'Connell was quoted upon hearing Governor Kenny Guinn  
support Privatization by stating "Thats so Refreshing"

Refreshing Defined means: pleasingly new, Different!

In Anticipation of the above, Senator O'Connell has Sponsored Senate  
Bill 417 which establishes a several member Board with Offices &

1 and support staff and Software,Supplies and the like to hear  
2 "Greivances" from "Certain Employers concerning Insurance.

3 Senator Townsend sponsored Senate Bill 75, Which allows Insurers  
4 to Boost or Cut Rates without permission of the State Insurance  
5 Commissioner. Why do I get the feeling some people are going to  
6 be refereshed but others may not!! Just to show you one Example  
7 of how refereshing things can be, A certain Nevada Senator is on  
8 the Board of Directors for Sierra Health Care,a large Managed  
9 Care Co. in the Work Comp Arena. A few years ago when the MCO's  
10 were reduced from 15 to 4 here in Southern Nevada, Their 3rd Qtr.  
11 Profits were published in the Paper having an Increase from \$3  
12 Million Dollars to \$10 Million Dollars.Politicians and Trial  
13 Lawyers here in Nevada Own or have Shares in Health Care.

14 Sierra Health Care by Contract,Gave Notice last year to  
15 cease being a Managed Care Provider and has now been licensed to  
16 sell Workers Compensation Insurance tenativly July 01,1999.  
17 Here in Nevada its been one thing to have the Casinos and Mining  
18 Industrys Paid Lobbyists Influencing the Legislators and trying to  
19 Amend Laws,Create Laws,and raise Taxes to pay for the growing  
20 Infrastructure because gaming deals in a Cash Product as well as  
21 Mining and they take the Cash out of Nevada to Re-Invest in other  
22 States,We understood that and dont like it. Our very own Senator  
23 Neal stated this year,"We dont have a Republican or Democratic  
24 Party in Nevada, "We have the Gaming Party." We now have State  
25 Employee's Lobbying the Legislature for everything under the Sun.

26 I'm not agianst Gaming in Nevada but Gaming is a Vice &  
27 we are experiencing the bad Social Impact (flip Side) in all  
28 aspects here in Nevada. To sum this up,let me share with you a  
"quote" given by Ms. Lynn Grandlund,who is a member of the State  
three-way task force Spearheading the implementation of Private  
Insurance for Nevada Workers Compensation in 1999,she also serves  
on two Sub-Committees,Education and Regulations. A member of the  
Advisory Board for Jean Hanna Clark Health Center (20+ Million  
Dollar State of the Arts Re-Hab Facility that has been a Black  
hole Money Drain on the State,but it is Magnificent) and she is  
President of the Employer's of Nevada,she is a Private Consultant,

1 in Las Vegas and has previously held the position of Vice-Presid-  
2 ent of Account Services at W.R. Gibbens and was president of  
3 Grandlund, Watson, Clark and Associates. Two years ago Testimony  
4 was being given before Randys Quarterly Sub-Committee Hearings  
5 on Workers Compensation and it was reported that the Physicians  
6 were not Complying with Completing the one Page Disability Forms  
7 with little check boxes defining the Injured Workers condition  
8 to returning to work. Ms. Grandlund stood up in the audience and  
9 stated "WE HAVE TO GET MORE CONTROL, OVER THE DOCTORS"

### 8 MONEY

9 For years now the cries of Financial Ruin and Near  
10 Insolvency and Bankruptcy have Permeated the Newspapers and  
11 Media. Enclosed with this Manifesto is the 1997 Fiscal Year  
12 SIIS Financial Report Submitted to Randys and Ann O's Committee  
13 on Work Comp. Notice it is in Graph Form, because Public Records  
14 arent Availiabile and in the new Bills proposed Mr. Dirks was  
15 quoted as wanting Total Privacy of Records in the Future so the  
16 Competition cant see his records. All of the Graphs paint a very  
17 Rosy picture of Profits on the upswing and Claim Expense has  
18 spireld down Significantly, wish I had the 1999 Figures for you!

17 To show you how the Insurance Shell Game is Portrayed, look  
18 and compare the below Figures still Posted in the Lobby of EICON  
19 in February 1999.

NET PREMIUM INCOME.....	*\$475.049
CLAIMS EXPENSE.....	\$438.405
INVESTMENT INCOME.....	\$108,197
TOTAL ASSETS.....	\$1,087,067
TOTAL LIABILITY.....	\$888,793
POLICY SURPLUS.....	\$198,174

22 \*Posted Figures in Thousands  
23 as of December 31, 1997

23 [www.Emp.Ins.Co.Com](http://www.Emp.Ins.Co.Com)

24 Out of every dollar paid in Premiums, usually no more than  
25 sixty-five cents is paid out in Claimants Benefits. In some States  
26 almost 50¢ of each premium dollar is retained by the Insurers.  
27 (Source: Lawrence White, Human Debris: The Injured Worker in America  
28 New York, Seaview/Putnam 1983). State Workers Compensation Statutes  
usually require Insurance Companys to set Monetary Reserves for



1 for claims which means that they must remove money which was tied  
2 up in investments and earning interest to non-interest accounts  
3 for claims payment. This is a big deal to Insurance Companys-  
4 which calculate interest on investments in daily units-because  
5 if the reserves are set too high, the Company is losing interest  
6 on its money; if the Insurance Company sets the Reserves to low  
7 by Law, it could risk legal action in the event of an Audit.This  
8 Explains why PPD Claims and Medical Bills are not paid in a timely  
9 manner,the consequences of which in addition to harrasing the  
10 claimant allow the Insurance company to earn more interest on its  
11 current money-and it can then set additional reserves to cover  
12 Payments. Another way to put it is for all the claimants they can  
13 Screw,they can well afford to pay the claimants that are dilligent.  
14 Insurer Adjusters are under tremendous pressure to keep the reser-  
15 ves trimmed to the bone. Heres an example.....

16 TOTAL PREMIUM COSTS.....\$42.9 Billion  
17 (insurance,self insurance,  
18 State insurance funds)

19 TOTAL COMPENSATION PAYMENTS.....\$30.7 Billion  
20 (\$11.5 Billion medical costs and  
21 \$19.2 Billion PPD Disability Payments

22 TOTAL SELF INSURANCE COSTS.....\$6.3 Billion

23 TOTAL PREMIUMS COLLECTED  
24 BY STATE INSURANCE FUNDS.....\$6.2 Billion

25 TOTAL AVERAGE COST FOR  
26 INSURANCE PER \$100 OF PAYROLL.....\$2.15¢

27 Source: Analysis Of Workers Comp Laws, 1991 ed  
28 Washington;U.S.Chamber Of Commerce 1991

29 Performing a little Arithmetic on the above figures,by deduc-  
30 ting the \$6.3 Billion for Self-insured employers from both the  
31 \$42.9 Billion premium payments and the \$30.7 Billion compensation  
32 payments(because self-Insurers by definition break even), we are  
33 left with \$36.6 Billion and \$24.4 Billion respectively for premium  
34 payments and compensation Payments for employers insured by Insur-  
35 ance companys and State Insurance funds. This Translates to an  
36 Average of 34 cents retained for every premium dollar received.

37 When considering that the figures for premium payments also  
38 included \$6.2 Billion collected by State Insurance Funds which  
operate on smaller profit margins average of 34 cents retained per

1 premium dollar by private, for profit insurance carriers becomes  
2 higher. It becomes higher still when interest on invested premiums  
3 is included. This explains why Insurance companies controvert  
4 claims on any pretense and then re-instate benefits at the last  
5 minute before Hearings or service of a Lawsuit. They can earn a  
6 years interest (More in Nevada, I personally Know Claimants cases  
7 that have drug on for years, One in particular, 10 years) on your  
8 money. For an Industry which is always pleading "Financial Hard-  
9 ship" as Justification for Legislation in its favor, while able to  
10 make more than 50¢ on the dollar, this is a rather sureptitious  
11 way to do business, to say the least or as some say "refreshing."

12 EICON Manager, Douglas Dirks Plan include all assets owned  
13 by the SIIS and land is to be converted to a non-profit Mutual  
14 Employer owned Insurance Company and all this hinges on the fact  
15 of EICON(SIIS) getting the OK for Tax-Exempt status by early fall  
16 of 1999 and Govenor Kenny Guinn has Annointed hissself to throw the  
17 switch and cancel this if the tax-liabilities are horrendous.

18 It is also quite possible to revert to their Original (rumor)  
19 Plan and sell off or join forces with another carrier and as a  
20 little bonus prize, throw in the state of the art Jean Hanna re-  
21 Hab Center. The newspapers could read, "SIIS Titanic, rescued,  
22 Liberty Mutual Joins forces, Scott Craggie negotiates and smooths  
23 out the Kinks." No matter which scenario evolves , these people  
24 plan on dumping 150-600 State Workers on the Streets because the  
25 SIIS payroll was reported to be hovering around \$40 Million @ Year.  
26 Now with the Statutes Gutted and the Premiums will eventually rise  
27 the overhead of Dirks Mutual will be non-existent.

28 You all remember the Rodney King Fiasco, Whereby the Police  
Officers that stood there and Watched, They had Knowledge and  
neglected to stop and correct a wrong, and were prosecuted and  
sent to Prison.

**NOTICE: THE OATH AND SUBSCRIPTION THERTO IS THE FIRST CONTRACT  
APPOINTED AGENCY HEADS OR ELECTED OFFICIALS TAKE UNDER THE USCA, 9  
AS JUDGE, ATTORNEY, CLERK, SHERIFF, POLICE, JUDICIAL OFFICER, LEGISLAT-  
IVE OFFICER, ADMINISTRATIVE OFFICER TO GAIN THE POWER OF AUTHORITY  
AND JURISDICTION OF OFFICE.**

All of you Senators and Assemblypersons have Knowledge of the

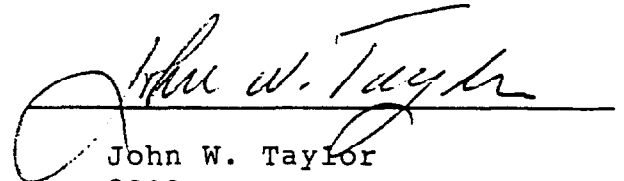
1 Law. It is the Law you are dealing with on a daily basis. You  
2 have knowledge that there has been an Exodus of State Treasury  
3 Funds Earmarked for a Segregated account pursuant to the  
4 Nevada State Constitution Article 9, § 1, which states in part..

5 ..... "Any moneys paid for the purpose of providing  
6 compensation for industrial accidents and Occupational  
7 diseases, and for administrative expenses incidental  
8 Thereto, and for the purpose of funding and administering  
9 a public employee's retirement system, shall be segregated  
10 in proper accounts in the state treasury, and such moneys  
11 shall never be used for any other purposes, and they are  
12 hereby declared to be Trust funds for the uses and  
13 purposes herein specified".....

14 This Registered Voter that Voted in all previous elections since  
15 becoming of age and on behalf of Nevadans respectfully request  
16 you Stop and Correct a Wrong, repeal Privatization Statutes and  
17 have Douglas Dirks come forward with Public Financial disclosure  
18 and sharpen his pencil and put it to work for the Working Class  
19 of This Silver State.

20 Dated this 18th Day of April, 1999

21 cc: Distribution

22 

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24 3809 Wren Court  
25 North Las Vegas,  
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27 (702) 645-5740  
28 FAX 396-0301

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30 of Injured Workers

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